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<u>**VIA ECF ONLY**</u>   November 17, 2025
Hon. Seth D. Eichenholtz, U.S.M.J.
United States District Court
Eastern District of New York

Re:		**Request for Pre-Motion Conference**
Case:		<u>**Kao v. PNC Bank v. Chen**</u>
Docket No:		**1:25-cv-03228-ENV-JRC**

Dear Judge Eichenholtz:

My office has just been retained by Defendant Chen. We reached out to counsel for PNC Bank this evening to request their consent to extend Defendant Chen's time to answer the third party complaint, and stay the entry of any potential default. However, in the process of reviewing the filed pleadings in this matter, it has come to our attention that there may be a defect in the court's ability to assert supplemental jurisdiction over the claims set forth in the Third Party Complaint against Defendant Chen. Defendant Chen believes that the court lacks jurisdiction and seeks to file a Rule 12(b)(2) motion to dismiss.

This defect arises from the fact that Plaintiff Kao's complaint states a claim against Defendant PNC Bank based on diversity jurisdiction pursuant to 28 U.S.C. 1332. However, Third-Party Defendant Chen and Plaintiff are both citizens of New York State. Therefore, the addition of Third-Party Defendant Chen via Third Party Complaint may deprive this court of supplemental jurisdiction as it violates the "complete diversity rule."

Defendant Chen therefore requests leave to file a motion in lieu of answer seeking to dismiss the action in its entirety, or just the third party complaint on these grounds. Defendant Chen also seeks leave to move for an extension of time to answer or otherwise respond to the complaint, to the extent opposing counsel do not consent to the proposed order to extend Chen's time to answer. We respectfully request that the court schedule a premotion conference to address these issues.

Respectfully Submitted,

/s/ Alexander Schachtel

Alexander Schachtel, Esq.